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U.S. DISTRICT COURT

Name: Melvin E. Smith #21101-35002Address: Box 250Telephone: Drafter, UT 84020FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

APR 25 2012

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
By Central DIVISION
D. MARK JONES, CLERK
DEPUTY CLERKMelvin Eugene Smith
(Full Name)

PLAINTIFF

vs.

Warden A.C. BigelowDr. Richard GardenJohn Docs 1-10

DEFENDANTS

CIVIL RIGHTS COMPLAINT
(42 U.S.C §1983, §1985)

Case: 2:12-cv-00389

Assigned To : Waddoups, Clark

Assign. Date : 4/23/2012

Description: Smith v. Bigelow et al

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

a. ☒ 42 U.S.C. §1983b. ☐ 42 U.S.C. §1985c. ☐ Other (Please Specify) _____2. NAME OF PLAINTIFF Melvin Eugene Smith
IS A CITIZEN OF THE STATE OF UtahPRESENT MAILING ADDRESS: Box 250 Drafter, UT 840203. NAME OF FIRST DEFENDANT Dr Richard Garden

IS A CITIZEN OF SALT LAKE CITY, UTAH
(City and State)

IS EMPLOYED AS Head medical provider at Department of Corrections
(Position and Title if Any) (Organization) UTAH

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

PETITIONER has sought prescription for "orthopedic Boots" from The medical staff and from Dr. Richard Gorden, directly who, acting under The authority or color of state law has Deliberately Refused to prescribe The "orthopedic Boots" knowing of Their need and resulting in injuries and irreparable damage.

4. NAME OF SECOND DEFENDANT Dr Sidney G. Roberts
(If applicable)

IS A CITIZEN OF SALT LAKE CITY, UTAH
(City and State)

IS EMPLOYED AS Doctor at Department of Corrections Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

on or about Jan 18, 2011, PETITIONER informed Dr Roberts of The condition of his feet which require prescribed orthopedic Boots.

Dr Roberts acting under The authority or color of state law Deliberately Refused to treat PETITIONER's foot conditions stating "orthopedic Boots are no longer available for inmates because inmates hide contraband in Them?"

5. NAME OF THIRD DEFENDANT Warden A.C. Biselow
(If applicable)

IS A CITIZEN OF SALT LAKE CITY, UTAH
(City and State)

IS EMPLOYED AS Warden at Department of Corrections
(Position and Title if Any) (Organization) UTAH

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ___ NO ✓ If your answer is "YES" briefly explain.

Warden Bigelow is named on the basis he has care, custody and control of Petitioner, and the Responsibility for his care, safety.

6. NAME OF FOURTH DEFENDANT _____
(If applicable)

IS A CITIZEN OF _____
(city and State)

IS EMPLOYED AS _____ at _____
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ___ NO ___ If your answer is "YES" briefly explain.

(Use additional sheets of paper if necessary.)

B. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

Due to Utah State Prison's Medical Department's Deliberate Indifference and Knowingly has Refusal to Treat my pre-existing foot Disability of which They are aware. The medical Staff's Refusal has Resulted in a Neck Surgery on August 18, 2011, is causing irreparable harm and Debilitation to my feet which have a 55% Disabled in the left and 65% Disabled in the Right foot. The Prison medical Staff's Refuses to give me the prescribed orthopedic Boots, which They have provided to me in the past. Recently, after the Neck Surgery, I suffered a fall related to lack of footwear and wherein I Re-injured my Neck and lower back.

C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

a. (1) Count I: Medical Deliberate Indifference

- (2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)

on January 18, 2011, I informed prison medical staff of the
need of orthopedic Boots for my Disability, and I had Boots in my
property. I was denied, and now the prison refuses to provide the
orthopedic Boots for my condition. As a Result I had to undergo
a Neck Surgery on August 18, 2011, I Re-injured my lower Back
on September 19, 2011 and I am suffering ongoing Debilitation and
"proliferation" of my conditions.

b. (1) Count II: Medical Deliberate Indifference

(2) Supporting Facts: As a Result of The Utah State Prison's
Deliberate Refusal to Treat my pre-existing Foot Disability I
was forced to undergo a Micro-diskectomy at The C-5-C-6-C-7
level. This occurred on August 18, 2011. Additionally, as a result
of The Prison's Refusal to Treat my Medical Condition I
had to have a diskectomy performed at The C-5-C-7 level

c. (1) Count III: Medical Deliberate Indifference

(2) Supporting Facts: on or about September 19, 2011 as a Result of The Prison's Deliberate Refusal To Treat my pre-existing foot Disability, I suffered a fall down steel flights of stairs on Baker Block. This Reinjuring Both my lower Back and Neck The injuries were and are a proximately caused by The Prison's Deliberate Refusal To Treat my foot condition's.

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

As set forth above I am suffering ongoing harm, Debilitation and proliferation of my foot Disability, I was forced to undergo Neck Surgery at The C5-C6-C7 levels on August 18, 2011 at The University of Utah Medical Center and finally on Sep 19, 2011 I Reinjured Both my lower Back and Neck as a result of a fall proximately caused by The fact I do not have The medically Required orthopedic Boots!

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment? YES _____ / NO ✓. If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

- a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

- b. Name of court and case or docket number: _____

- c. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____
- d. Issues raised: _____

- e. When did you file the lawsuit? _____
Date Month Year
- f. When was it (will it be) decided? _____
2. Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES____ / NO _____. If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

F. REQUEST FOR RELIEF

1. I believe that I am entitled to the following relief:
- I believe and pray for damages in an amount believed to be not less than \$500,000.00 or in an amount to be proved at Trial by a jury. I pray for punitive damages and damages for my or going pain, suffering and compensatory damages for my physical and mental injuries.*

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at Deppar Prison on Feb 3 2012
(Location) (Date)

Melvin E Smith
Signature